To boldly question Use
Gird us, and to refuse
To league with gray Abuse
For right of might.
Teach us to still deny
The letter's sophistry;
In spirit we would try
The might of right.

Cleave with Thy heaven's light
Our waning moral night;
Thy truth our baffled sight
Would recognize.
From earth-bound knowledge free
Our minds; that, loving Thee,
Thy pleasure it may be
To make us wise.

A new hope let us see,
A world-wide sympathy,
A generous rivalry.
Make discord cease,
Foeman to foe extend
Palm to palm, friend to friend,
And love alone transcend
Thy reign of peace.

The President's Opportunity.

BY LE ROY PARKER OF THE BUFFALO BAR.

Hon. Richard Bartholdt, member of Congress from Missouri, and head of the American Delegation to the several meetings of the Interparliamentary Union, delivered an address at the Lake Mohonk Conference on International Arbitration, at its meeting last May, which was inspired by a great idea. Not that the idea was new, but the great merit of his address was that he crystallized it into a clear cut and feasible plan.

He said: "If the President of the United States were to say to King Edward and Emperor William, 'Let us keep the peace, and in case of any trouble between any two of our three countries, let us not draw the sword until we have had an investigation by an impartial third party, be it power, commission or court,' if, I say, President Taft were to make a formal proposal of this nature and these two great monarchs were to grasp the outstretched hand, what would be the result? It would signify the end of war."

Nearly every speaker at that conference reiterated this idea. The same suggestion has been made in many declarations and resolutions adopted at the several peace congresses, international conferences and by peace societies, representing many different nationalities, to the effect that, by reason of its independent position and its freedom from entanglements, past and present, with other world powers, the United States is the one power whose invitation would be regarded as free from any ulterior motive and as wholly disinterested. Why may not the President accept this great mission: invite the rulers of the great powers to confer together to this end, and enjoy the satisfaction of soul that would surely follow the successful result? The time seems ripe for the consummation of the great project of an absolute cessation of war among the nations, for two chief reasons:

1. Never before in the world's history has public opinion been so universally in favor of peace and arbitration and against the maintenance of great armaments as now.

2. Never before has the drain upon the resources of the people for maintaining armaments and waging war been so great and so exhausting as now. In view of this situation it would seem most desirable that the President extend an invitation to the rulers of all the great powers to appoint representatives, with full power to act for their governments, to meet together with representatives of our country, and negotiate a treaty which shall provide chiefly —

(1) That none of the nations shall take any hostile steps against another, under any circumstances whatever short of self-defense in face of an immediate, actual hostile attack.

(2) That any nation shall be prevented from committing any overt act of war, by the whole force of the combined powers.

(3) That any complaint or grievance of one power against another shall be formulated and presented to the permanent Hague Court, for hearing and determination, under proper rules and regulations, to be agreed upon, conforming in a general way to the proceedings in civil courts.

(4) That the award or determination of the court, if not conformed to by the nation decided against, shall be enforced by the combined powers, by methods to be agreed upon, such as withdrawal of all diplomatic relations, non-intercourse, etc.

(5) That armaments shall be restricted to a limit that shall be sufficient simply for a police force, and to aid, in conjunction with other nations, in enforcing the regulations against overt acts of war, compelling obedience to the decrees of the Court of Arbitration, and generally maintaining the peace of the world.

It seems more than possible that the rulers of other nations, on which the burdens of war-preparedness weigh far more heavily than upon the United States, would gladly join with us in such an effort to put an end to war and to the enormous war expenditures which are a constantly increasing load upon the shoulders of the citizens of all countries. This action will, of course, be in advance of, and anticipate any action of, the Hague Conference of 1915, and be more decisive and effective than the action already taken by the Hague Conferences of 1899 and 1907, which was advisory only, the delegates there having been invested with no power to bind their respective governments. Happily, however, many treaties have been entered into, providing for arbitration, pursuant to the recommendations of the Hague conventions. These treaties, however, are limited in scope. With but three exceptions they do not bind the powers to submit all questions of difference to arbitration, but reserve questions of vital interest, of national honor and national independence to be fought out by arms if necessary.

The proposed treaty, if not including every possible question of difference between nations, should at least provide that the question as to whether the case involves vital interests, national honor or independence, should be passed on by the court, as our civil courts pass upon questions of their own jurisdiction when raised by objection or demurrer, and not be left to the caprice of one or

the other of the contending nations to assert that its vital interest, honor or independence is involved, and thus avoid arbitration and make excuse for war. In the day of the duel honor was an indefinable thing and depended much upon how a man felt at the time his honor was assailed. The honor of a nation is as capable of definition and determination by a court as a boundary line.

In his message to the present Congress the President has shown his approbation and sympathy for international arbitration, and has indicated his position regarding great armaments by recommending large retrenchment in the estimates for naval appropriations and in the building of warships.

It is to be hoped that public opinion in favor of extending an invitation to the great rulers to agree to put an end to war, may be manifested by all persons and all public agencies, such as the press, the pulpit, the rostrum, in such a way that President Taft may feel that he has the earnest support and sanction of the entire country in favor of such action on his part.

The Proposed High Court of Nations.

BY JAMES L. TRYON, ASSISTANT SECRETARY OF THE AMERICAN PEACE SOCIETY.

From the Yale Law Journal for January, 1910, with Permission.

"Very recently the State Department has proposed in a circular note to the powers that the Prize Court should also be invested with the jurisdiction and functions of a Court of Arbitral Justice. The United States as the originator of this project is confidently yet anxiously looking forward to its acceptance by the powers, which will give to the world an international judicial body to adjudge cases arising in peace as well as controversies incident to war." — *Secretary Knox.*

An international court was one of the first ideas proposed in the practical program of the world peace movement. As early as 1840 the constitution and functions of such an institution were worked out by William Ladd, the founder of the American Peace Society.* This legal preventive of war was afterwards urged by the Peace Society and in later years was predicted by Edward Everett Hale as sure to be realized. But not till the first Hague Conference met in 1899 did an International Arbitration Court come into existence. The Permanent Court of Arbitration, as it is technically called, though popularly known as the Hague Court, settled the Pious Fund case, the Venezuela Preferential Payment case, the Japanese House-Tax case and the dispute between Great Britain and France over their treaty rights in Muscat, passed upon the Casablanca incident, adjusted the dispute between Norway and Sweden as to their maritime frontier, and has pending before it the fisheries dispute between the United States and Great Britain, and the Oronoco Steamship case between the United States and Venezuela.

That the court has been a success on the whole is beyond question. The only serious fault found with its decisions has been in connection with the Venezuela Preferential Payment case. In that case the court was accused of favoring the side of military force which it was established to supersede; but its decision was accepted as law and was approved by such high legal authorities as Chief Justice Baldwin of Connecticut and Prof. John Bassett Moore of Columbia. (See Mohonk Report for 1904.) Other criticisms, however, have been made in regard to its constitution and the liberty of its members. These will be dealt with later. The fact that nearly a hundred arbitration treaties, including twenty-four made by the United States, pledge most of the nations to refer certain classes of disputes to it, shows that it has won public confidence and has, to a large degree, become fixed in the life of the world. But besides this court, which is actually in service, are two others, both of them projected by the second Hague Conference, that may also go into operation when certain formalities are complied with or certain necessities arise. One of these is the International Prize Court, which is for the adjudication of cases of capture of neutral merchantships and cargoes in time of war, a code for which was made at the Naval Conference held in London in 1909, but is not yet ratified by the nations that are parties to it. The other is the Court of Arbitral Justice, also called the Judicial Arbitration Court, which is for the same kind of cases that now go to the Permanent Court of Arbitration. It is the Court of Arbitral Justice, an institution that is known to but comparatively few American people, and that may easily be confused in the popular mind with the present Hague Court, to which I wish to call attention.

But why, it may be asked, should we have a new court when we already have one that is successful and acceptable? The answer reveals the wonderfully rapid growth of the peace cause within the past decade, and is of special interest to lawyers because it is they who, coming to the aid of the movement, are responsible for the proposition. Improvements upon the procedure of the court of 1899 were suggested by various writers, but, except for the *American Journal of International Law*,* practically no peace literature up to the time of the second Hague Conference proposed a new court, nor had any demand been made for it, either by peace societies or by the resolutions of the Interparliamentary Union, which are frequently taken as the platform of the peace movement.

The progress which has been made toward the court is due primarily to the efforts of three great American lawyers, ex-Secretary Root, Prof. James Brown Scott and Hon. Joseph H. Choate, especially the two first named. All who attended the opening session of the National Peace Congress in New York in 1907, which was organized for the purpose of bringing public sentiment to bear on the Hague Conference, will remember the profound impression made by Mr. Root's address.

*See "Prize Essays on a Congress of Nations," Boston, 1840, p. 550. Dr. Trueblood, the Secretary of the American Peace Society to-day, says that Ladd left little to be said on the subject. See also an address on Ladd's project by Prof. James Brown Scott in the ADVOCATE OF PEACE, August and September, 1908, p. 196. It contains the substance of Ladd's plan.

*See "A Permanent Tribunal of International Arbitration; Its Necessity and Value," by R. Floyd Clarke, *American Journal of International Law*, Vol. I, p. 342, April, 1907.